
OLR Bill Analysis

sHB 5438

AN ACT CONCERNING THE RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS REGARDING THE TREATMENT OF BED BUG INFESTATIONS.

SUMMARY:

This bill establishes a framework for identifying and treating bed bug infestations in residential rental properties, including public housing. It sets separate duties and responsibilities for landlords and tenants, including notice, inspection, and treatment requirements. It also gives landlords and tenants remedies when either party fails to comply with these duties and responsibilities.

The bill requires landlords to hire and pay for a pest control agent to treat bed bug infestations if they are unable to successfully treat the infestation on their own. However, it makes tenants financially responsible for subsequent treatment costs of their unit and contiguous units if they knowingly and unreasonably fail to comply with treatment measures. It also prohibits landlords from renting units that they know or suspect are infested with bed bugs.

The bill requires the Connecticut Agricultural Experiment Station, in consultation with the departments of Public Health and Energy and Environmental Protection (DEEP), within available appropriations, to develop and publish guidelines and best practices identifying the most effective and least burdensome methods of investigating and treating bed bug infestations.

The bill makes technical and conforming changes to the statute allowing tenants to enforce a landlord's duties (CGS § 47a-14h).

EFFECTIVE DATE: October 1, 2014

DEFINITIONS

The bill defines “certified applicator” as an individual who is certified by DEEP to apply pesticides. A “pest control agent” is a (1) certified applicator or (2) person otherwise specially licensed or qualified to treat bed bug infestations. “Bed bug detection team” means a scent detection canine team that holds a current, independent, third-party certification in accordance with the standards set by the National Pest Management Association. “Qualified inspector” is a (1) certified applicator, (2) local health department official, or (3) bed bug detection team. “Bed bug” refers to the species *Cimex lectularius*, the common bed bug.

LANDLORD'S DUTIES

By law, landlords must comply with building and housing codes materially affecting health and safety and keep units in fit and habitable condition (CGS § 47a-7).

Under the bill, landlords must:

1. provide reasonable written or oral notice to a tenant before entering a unit for bed bug inspection or control purposes;
2. pay for the inspection and treatment of a bed bug infestation;
3. have the unit and contiguous units inspected by a qualified inspector within five business days of receiving notice from a tenant that his or her unit may be infested;
4. take reasonable measures to treat the infestation within five business days after the inspection, including treating contiguous units;
5. offer assistance to tenants who cannot physically comply with treatment procedures, for which the landlords may charge a reasonable amount;
6. offer reasonable accommodations to people with disabilities;
7. refrain from offering a unit for rent if they know or suspect it is

infested;

8. disclose to prospective tenants whether the rental unit or a contiguous unit is currently infested; and
9. upon request from a current or prospective tenant, disclose the last date the rental unit was inspected for bed bugs and found free of infestation.

The bill specifies that a landlord's rights and duties, as they relate to contiguous units, apply only if the landlord owns, leases, or subleases the contiguous unit.

Under the bill, a landlord may self-treat an infestation. If a landlord choses to do so, he or she must:

1. vacuum areas to be treated before treatment;
2. within five days after the treatment, have a qualified inspector inspect the unit and provide written certification that it is not infested; and
3. hire a pest control agent within five business days after a qualified inspector's determination that self-treatment was not effective.

TENANT'S DUTIES

Under the bill, tenants must:

1. promptly notify their landlord, orally or in writing, when they know or suspect their unit is infested with bed bugs;
2. cover the costs associated with preparing the unit for inspection and treatment;
3. comply with reasonable measures to eliminate and control the infestation, or pay additional costs arising from noncompliance; and
4. not move infested material from their unit until treatment is

complete or the landlord gives them permission to do so.

INSPECTIONS

Landlords, qualified inspectors, and pest control agents must enter units in accordance with state law. That is, landlords must provide reasonable notice of their intent to enter unless there is an emergency, court order, extended absence, or abandonment. By law, tenants must not unreasonably deny landlords and their workers or contractors (e.g., a qualified inspector or pest control agent) access to their unit.

During an initial inspection, qualified inspectors may visually or manually inspect only a tenant's bedding and upholstered furniture. However, they may inspect other items, including personal belongings, when they deem it necessary and reasonable if they find bed bugs in the unit or in a contiguous unit.

FINANCIAL RESPONSIBILITY

The bill requires landlords to pay to treat bed bug infestations. Tenants are responsible for preparing the unit for treatment (e.g., moving or covering furniture). The bill does not modify state or federal duties regarding reasonable accommodations for people with disabilities.

The bill requires landlords to assist tenants who cannot comply with their duty to prepare their unit. If landlords disclose the cost of assistance, they may charge tenants a reasonable amount for the assistance and set a repayment schedule of up to six months, unless both parties agree to an extension. Under the bill, even if the tenant does not agree to the charges or repayment schedule, the landlord must treat the unit. Landlords may not institute summary process (eviction) proceedings against tenants solely because they fail to make an agreed-upon payment, but they may deduct the amount owed from tenants' security deposits at the end of the tenancy.

Tenants who unreasonably fail to comply with treatment procedures may be held financially responsible for the cost of additional treatments of their unit and contiguous units.

Under the bill, landlords are not responsible for (1) providing tenants with alternative accommodations during treatment or (2) replacing tenants' personal property. However, under the state's Uniform Relocation Assistance Act, landlords may be liable for costs related to relocating tenants displaced by code enforcement activity associated with a bed bug infestation (CGS § 8-270).

REMEDIES

In addition to the remedies identified in the bill, aggrieved landlords and tenants may pursue any other remedies available in law or equity. The bill does not restrict the authority of state or local housing or health code enforcement agencies.

Tenant's Remedies

The bill establishes a rebuttable presumption that landlords breached their duty to comply with building and housing codes materially affecting health and safety and keep units in fit and habitable condition when the statutory bed bug infestation procedure is not followed (CGS § 47a-7(a)(1-2)). The bill allows tenants to (1) ask a court to provide relief, including rent abatement or an order to comply or (2) terminate the rental agreement (CGS §§ 47a-12, 47a-14h).

A landlord who fails to comply with the bill is additionally liable for a \$250 fine, or actual damages, whichever is greater, plus reasonable attorney's fees.

Landlord's Remedies

If tenants unreasonably refuse to give a landlord, qualified inspector, or pest control agent access to their unit, or fail to comply with inspection or treatment procedures or control measures, a landlord may ask the court to provide relief. This includes:

1. granting the landlord access to the unit to carry out inspection or treatment measures;
2. requiring the tenant to comply with inspection or control measures or charging them for the costs of noncompliance, including attorney's fees; and

3. terminating the rental agreement.

Under the bill, the entry fee for initiating such an action is the same as that for a small claims case (i.e., \$90).

Any order granting the landlord, qualified inspector, or pest control agent access to the premises must be served on the tenant at least 24 hours before entry.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/13/2014)